



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

# DRAFT

Date:	Enrolled	Bill No:	<a href="#">Assembly Bill 210</a>
Tax Program:	Transactions and Use	Author:	Wieckowski
Sponsor:	Alameda County	Code Sections:	RTC 7291
Related Bills:	Assembly Bill 431 (Mullin) Senate Bill 1 (Steinberg)	Effective Date:	01/01/14

## BILL SUMMARY

This bill extends the authority of Alameda County, and authorizes Contra Costa County, to impose a countywide transportation program transactions and use tax (district tax), until December 31, 2020. The tax may exceed the existing 2% rate limitation.

## ANALYSIS

### CURRENT LAW

The State Board of Equalization (BOE) administers locally-imposed sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law. By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the local and district taxes.

The **Bradley-Burns Uniform Local Sales and Use Tax Law**<sup>1</sup> authorizes cities and counties to impose local sales and use tax. This tax rate is fixed at 1% of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Of this 1%, cities and counties use 0.75% to support general operations. The remaining 0.25% is designated by statute for county transportation purposes, but restricted for road maintenance or the operation of transit systems. The counties receive the 0.25% tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. In California, all cities and counties impose Bradley-Burns local taxes at the uniform rate of 1%.

The **Transactions and Use Tax Law**<sup>2</sup> and the **Additional Local Taxes Law**<sup>3</sup> authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%<sup>4</sup> (with the exception of Los Angeles County<sup>5</sup>).

<sup>1</sup> Part 1.5 of Division 2 of the Revenue and Taxation Code (RTC), commencing with Section 7200

<sup>2</sup> Part 1.6 of Division 2 of the RTC, commencing with Section 7251

<sup>3</sup> Part 1.7 of Division 2 of the RTC, commencing with Section 7280

<sup>4</sup> RTC Section 7251.1.

<sup>5</sup> In 2003, SB 314 (Chapter 785, Murray) authorized the Los Angeles Metropolitan Transportation Authority to impose a 0.50% district tax for specific transportation projects, and excluded that 0.50% tax from the 2% combined rate limitation established by RTC 7251.1. In 2008, voters within Los Angeles

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In addition, Section 7291 authorizes Alameda County to impose a district tax for transportation programs at a capped rate of 0.50%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

- (1) Alameda County adopts an ordinance proposing the district tax by any applicable voting requirements;
- (2) the proposed ordinance is submitted to the electorate on the November 6, 2012, general election ballot and is approved by two-thirds of the voters voting on the ordinance; and,
- (3) the district tax conforms to the Transactions and Use Tax Law.

If the ordinance is not approved by the electorate by November 6, 2012, Section 7291 will be repealed as of January 1, 2014.

#### **PROPOSED LAW**

This bill extends Alameda County's authority, and grants Contra Costa County the authority, to impose a district tax for countywide transportation programs, until December 31, 2020. The bill deletes the requirement that the ordinance be submitted to the voters on the November 6, 2012, general election ballot. However, the proposed district tax ordinance must be approved by the voters as of December 31, 2020, or the bill's provisions will be repealed as of that same date.

The bill states that the Legislature finds and declares that a special law is necessary because of the unique fiscal pressures experienced in Alameda County and Contra Costa County in providing essential transportation programs.

If enacted, the bill takes effect on January 1, 2014.

#### **BACKGROUND**

Assembly Bill 1086 (Wieckowski, Ch. 327, Stats. 2011) enacted the authorizing statute for Alameda County to impose a district tax for transportation purposes that would be excluded from the 2% rate limitation. The bill required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012, general election ballot. Failure to enact the ordinance by that date will result in the sunset of the provisions on January 1, 2014.

Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012, ballot; the measure fell 0.14% short of the 66.6% super-majority needed to pass.

#### **DISTRICT TAXES CURRENTLY ADMINISTERED BY THE BOE**

Beginning April 1, 2013, there will be 169 local jurisdictions (city, county, and special purpose entity) imposing a district tax for general or specific purposes. Of the 169 jurisdictions, 43 are county-imposed taxes and 126 are city-imposed taxes. Of the 43 county-imposed taxes, 28 are imposed for transportation purposes.

Currently, the district tax rates vary from 0.10% to 1%. The combined state, local and district tax rates range from 7.625 to 9.50%, with the exception of the cities of La Mirada, Pico Rivera, and South Gate (10%) in Los Angeles County.

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County approved the additional 0.50% effective July 1, 2009, which raised the tax rate in the cities of South Gate and Pico Rivera to 10%. Effective April 1, 2013, the tax rate in the City of La Mirada (in Los Angeles County) also will be 10%.

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A listing of the district taxes, rates, and effective dates is available on the BOE's website: [www.boe.ca.gov/sutax/pdf/districtratelist.pdf](http://www.boe.ca.gov/sutax/pdf/districtratelist.pdf).

## COMMENTS

1. **Sponsor and Purpose.** The Alameda County Transportation Commission is sponsoring this bill in an effort to provide additional funding for transportation programs and services for the counties of Alameda and Contra Costa. According to the author's office, in November 2010, voters within the city of Union City approved an additional 0.5% tax effective April 1, 2011. Consequently, Alameda County cannot enact a new district tax because Union City's 0.5% tax, combined with the county's district taxes, already reaches the maximum 2% limit.

Similarly, in November 2012, voters within the city of Moraga approved an additional 1% tax effective April 1, 2013. Thus, a new county-wide tax would push Contra Costa County over the 2% limit as well.

2. **The April 23, 2013 amendments** added coauthors and made technical, nonsubstantive changes. **The March 18, 2013 amendments:** (1) authorized Contra Costa County to impose a transportation district tax at a rate of no more than 0.50%; (2) deleted the prior bill's reference to a November general election ballot vote; (3) change the provision's repeal date from January 1, 2017, to December 31, 2020, if no ordinances are adopted by then; and (4) added legislative findings and declarations.

3. **Current district taxes levied within Alameda and Contra Costa Counties.** Currently, **Alameda County** has five district taxes imposed within its borders—three county-wide taxes and two city-wide taxes. For the three county-wide taxes, the tax rates are 0.50% each for a total county-wide tax rate of 1.50%. Thus, the total state, local, and district tax rate imposed within the unincorporated area of Alameda County is 9%. The two cities that impose a district tax are San Leandro, at a rate of 0.25% and Union City, at a rate of 0.50%, with a total state, local, and district tax rate of 9.25 and 9.50%, respectively.

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. The city district taxes count against the 2% limit. Because Union City imposes a tax of 0.50%, Alameda County may not enact a new district tax without this bill.

Of the three county-wide taxes, two are imposed for transportation purposes, and one is imposed for essential health care services. The Alameda County Transportation Improvement Authority (ACTIA) and the Bay Area Rapid Transit levy two 0.50% district transportation taxes. In 2010, the ACTIA merged with the Alameda County Congestion Management Agency (ACCMA) to form the new county-wide transportation agency—the Alameda County Transportation Commission (Alameda CTC). The Alameda CTC is a joint powers authority whose members include the 14 cities in Alameda County, the County of Alameda, Alameda County Transit, BART, ACCMA, and ACTIA.

Currently, **Contra Costa County** has twelve district taxes imposed within its borders—two county-wide taxes and ten city-wide taxes. BART and Contra Costa County Transportation Authority (CCTA) each levy 0.5% transportation-related taxes for a total county-wide tax rate of 1%. Thus, the total state, local and district tax rate imposed within the unincorporated area of Contra Costa County is 8.50%.

Eight cities impose a 0.5% district tax (Concord, Hercules, Orinda, Pinole, Pittsburg, Richmond, and San Pablo) while El Cerrito<sup>6</sup>, and Moraga impose 1% taxes. The overall tax rates in these cities are 9 and 9.5%, respectively.

- 4. Other California counties at or near the 2% limit.** San Mateo County has reached the 2% limit with its three 0.5% county-wide taxes (1.5%) and two city-wide taxes (Half Moon Bay (0.5%) and San Mateo (0.25%)). Because Half Moon Bay imposes a 0.5% tax, San Mateo County has reached the 2% limit.

While San Diego County only levies one 0.5% district tax, five cities impose their own. National City's 1% rate leaves San Diego County 0.5% shy of the 2% limit.

- 5. Related legislation.** AB 431 (Mullin) authorizes a transportation planning agency to impose a district tax within all or a specified portion of its jurisdiction, with not less than 75% of available net revenues spent equally among transportation, affordable housing, and parks and open space.

SB 1 (Steinberg) authorizes a local government whose jurisdictional boundaries include a Sustainable Communities Investment Area, as described, to establish a Sustainable Communities Investment Authority to impose a district tax within that area.

## COST ESTIMATE

This bill does not increase administrative costs to the BOE because it only authorizes Alameda County and Contra Costa County to impose a tax. However, if either county's voters approve the tax, the county would be required to contract with the BOE and pay for its preparation costs, as well as ongoing costs of BOE's services to administer the ordinance.

Based on the BOE's experience with similar county-imposed taxes, the one-time preparatory costs typically range from \$12,000 to \$138,000. Preparatory costs are the actual costs to update publications and returns, perform programming for data processing, develop instructions for both BOE staff and taxpayers, and notify taxpayers. Preparatory costs also include necessary costs from other state agencies (e.g., California Department of Motor Vehicles costs to train staff and program computers). Various factors may impact the BOE's preparatory costs. For example, the BOE mails a special notice to taxpayers in the affected county, including adjacent areas. If a county borders jurisdictions that have a large number of seller's permits, the BOE's mailing costs could be substantially higher.

In addition, because of certain fixed costs, the preparatory costs can vary depending on the number of new district taxes implemented at the same time. For example, the cost of updating a publication and return to add four new taxes in four separate districts is similar to the cost to add one new tax in one district. However, because the four new districts could share the costs, the per district cost would be less than if only one district added a new tax. Thus, the preparatory costs can vary depending on the number of district taxes being implemented at the same time.

Currently, Alameda County has three district taxes imposed at a rate of 0.5% in each district. For fiscal year (FY) 2012-13, the BOE's estimated administrative costs are: \$1,243,000 for the Alameda County Transportation Improvement Authority and

<sup>6</sup> The City of El Cerrito levies two district taxes: a 0.5% tax for general purposes and another 0.5% tax for street improvements.

\$1,242,000 for the Alameda County Essential Health Care Services Transactions and Use Tax. The 0.5% BART District tax is levied in three counties: Alameda, Contra Costa, and San Francisco. For FY 2012-13, the BOE's combined estimated costs to administer this 0.5% tax is \$2,893,000. Of the \$2,893,000 combined cost, we estimate Alameda County's portion to be similar to the estimated costs to administer the County's other two 0.5% district taxes.

Contra Costa County imposes two distinct 0.5% district taxes. For FY 2012-13, the BOE's estimated administrative costs are: \$763,000 for the Contra Costa County Transportation Authority. With regard to the BART District tax, we estimate the cost attributable to Contra Costa County to be similar to the costs to administer the County's other 0.5% tax.

## REVENUE ESTIMATE

### BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

In 2011, Alameda County's taxable sales totaled \$23.4 billion and Contra Costa County's taxable sales totaled \$12.8 billion. We assume that these counties' taxable sales follow a pattern similar to the Department of Finance's (DOF) forecast of overall statewide taxable sales. DOF's current revenue forecast assumes that taxable sales increased by 6.0% in 2012-13. The DOF further projects that taxable sales will increase by 7.0% in 2013-14, by 7.5% in 2014-15, and by 6.7% in 2015-16.

Based on DOF's forecast, we estimate Alameda County's taxable sales to be \$26.3 billion for FY 2014-15, and \$28.1 billion for FY 2015-16. Using DOF's forecast, we estimate taxable sales in Contra Costa County to be \$13.6 billion for FY 2014-15, and \$14.5 billion for FY 2015-16.

### REVENUE SUMMARY

Assuming the voters approve the tax authorized by the proposed law, this bill would generate the following additional revenue for **Alameda County**:

- For FY 2014-15, assuming a January 1, 2005 operative date, a 0.5% tax increase generates \$66 million (\$13.2 billion X 0.5%).
- For FY 2015-16, a 0.5% tax increase generates \$140 million (\$28.0 billion X 0.5%).

A **Contra Costa County** voter-approved tax would generate the following additional revenue:

- For FY 2014-15, assuming a January 1, 2015 operative date, a 0.5% tax increase generates \$34 million (\$6.8 billion X 0.5%).
- For FY 2015-16, a 0.5% tax increase generates \$72 million (\$14.4 billion X 0.5%).

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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